

EXHIBIT

#6

Feldman # 3D of
4/15/02

CYTOLOGIX CORPORATION

Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.

Defendant.

CIVIL ACTION

NO. 00-12231-REK

and

CIVIL ACTION

NO. 01-10178-REK

THIRD EXPERT REPORT OF
DR. STEVEN A. BOGEN

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document
was served upon the attorney of record for each other
party by ~~mail~~ hand on 2/27/02

[Signature]

envisioned the possibility of shifting the various functions associated with a temperature control system provided that the two anchor points are unchanged. These anchor points are the means to specify a desired temperature (user interface) and the power amplifier (temperature controller).

2. In the context of the '693 patent. The whole point of the patent is distributed temperature control so as to avoid the need for dozens of wires in a service loop connecting the moving platform to the stationary platform. We did this by placing some of the logic circuitry on the moving platform. This was unprecedented. Neither the U.S. Patent Office nor Ventana Medical produced any prior art describing such a distributed temperature control system. Therefore, there is no need to create artificially narrow definitions because of the patent prosecution history. Moreover, the patent itself contains the definitions of user interface and temperature controller. These definitions of temperature controller and user interface are both explicit within the patent (reviewed later, section E) and by context of the invention.

Using the illustration of Figure 2, we can see that part of the system is on the moving platform and part is on the stationary side. The data communications line connects the two sides. In the context of the patent, it is useful to consider where the two sides of the line are anchored. In other words, in order to have a distributed temperature control system, what *must* be on the user interface side?

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controller as described in the patent is the power amplifier. Mr. Richards agrees where he states:

The term "temperature controller" in this claim means a device that performs the driver or amplifier function of the temperature control system. (Mr. Richards' second report, claims chart for the '693 patent, claim 1, third element, page not numbered).

The Benchmark/Discovery instruments have several power amplifiers. Hence, they have a "plurality" of temperature controllers and infringe the patent claim.


Steven A. Bogen

Date 27 Feb 2002